U.S. DISTRICT COURT – N.D. OF N.Y.
FILED
Oct 27 - 2021
John M. Domurad, Clerk

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

---X

MARY JAPPEN as Administratrix of the Estate of JACQUELYN SCHNAKENBERG and MARY JAPPEN, Individually,

Plaintiffs,

-against-

UNITED STATES OF AMERICA,

Defendant.

---X

Case No.: 1:21-CV-1171 (BKS/CFH)

COMPLAINT

Plaintiffs, though their attorneys, Meagher & Meagher, P.C., upon information and belief, allege the following:

SUBJECT MATTER JURISDICTION AND VENUE

1. The Court has subject-matter jurisdiction pursuant to 28 U.S.C. 1346(b) and 1367(a).

2. Venue is proper pursuant to 28 U.S.C. 1391(e) in that this is an action against the United States of America and agents thereof are located in the County of Ulster and the acts and omissions alleged occurred within the Northern District of New York and Plaintiff-Decedent and Plaintiff did or still reside in New Paltz, New York.

3. At the times of claims herein, the Plaintiff and Decedent resided in Ulster County.

THE PARTIES

4. Prior to her death, Plaintiff-Decedent, JACQUELYN SCHNAKENBERG resided in Ulster County, State of New York, at [redacted] New Paltz, New York 12561.

5. Plaintiff, MARY JAPPEN currently resides in Ulster County, State of New York, at [redacted] New Paltz, New York 12561.

6. At all times herein mentioned, THE INSTITUTE FOR FAMILY HEALTH (hereinafter referred to "TIFFH"), was a duly constituted department and entity of the UNITED STATES OF AMERICA.

7. At all times hereinafter mentioned Defendant, UNITED STATES OF AMERICA, owned, operated, managed, and funded TIFFH.

8. At all times TIFFH, had a principal place of business located at 279 Main Street, Suite 102 New Paltz, New York 12561.

9. At all times hereinafter mentioned, TIFFH, owned, operated, and controlled the facility located at 279 Main Street, Suite 102 New Paltz, New York 12561.

10. At all times hereinafter mentioned, the Defendant, UNITED STATES OF AMERICA, owned, operated, and controlled the facility located at 279 Main Street, Suite 102 New Paltz, New York 12561.

11. At all times TIFFH, had a principal place of business located at 2006 Madison Avenue, New York, New York 10035.

12. At all times hereinafter mentioned, TIFFH, owned, operated, and controlled the facility located at 2006 Madison Avenue, New York, New York 10035.

13. At all times hereinafter mentioned, the Defendant, UNITED STATES OF AMERICA, owned, operated, and controlled the facility located at 2006 Madison Avenue, New York, New York 10035.

14. At all times TIFFH, had a principal place of business located at 1 Family Practice Drive, Kingston, New York 12401.

15. At all times hereinafter mentioned, TIFFH, owned, operated, and controlled the facility located at 1 Family Practice Drive, Kingston, New York 12401.

16. At all times hereinafter mentioned, the Defendant, UNITED STATES OF AMERICA, owned, operated, and controlled the facility located at 1 Family Practice Drive, Kingston, New York 12401.

17. At all times TIFFH, had a principal place of business located at 230 West 17th Street, New York, New York 10011.

18. At all times hereinafter mentioned, TIFFH, owned, operated, and controlled the facility located at 230 West 17th Street, New York, New York 10011.

19. At all times hereinafter mentioned, the Defendant, UNITED STATES OF AMERICA, owned, operated, and controlled the facility located at 230 West 17th Street, New York, New York 10011.

20. At all the times hereinafter mentioned, BRIDGET FOY, D.O., (hereinafter referred to as "FOY"), was a Doctor of Osteopathic Medicine licensed to practice medicine and practicing medicine in the State of New York.

21. At all the times hereinafter mentioned, FOY, was an employee of the Defendant, UNITED STATES OF AMERICA.

22. At all times hereinafter mentioned, FOY, was acting within the scope of her employment as an employee of the Defendant, UNITED STATES OF AMERICA.

23. At all times hereinafter mentioned, FOY, was an independent contractor of Defendant, UNITED STATES OF AMERICA.

24. At all the times hereinafter mentioned, FOY, was an employee of TIFFH.

25. At all times hereinafter mentioned, FOY, was acting within the scope of her employment as an employee of TIFFH.

26. At all times hereinafter mentioned, FOY, was an independent contractor of

TIFFH.

27. At all the times hereinafter mentioned, TRISSA J. ADAMS (hereinafter referred to as "ADAMS"), was a nurse practitioner licensed to practice nursing and practicing nursing in the State of New York.

28. At all the times hereinafter mentioned, ADAMS, was an employee of the Defendant, UNITED STATES OF AMERICA.

29. At all times hereinafter mentioned, ADAMS, was acting within the scope of her employment as an employee of the Defendant, UNITED STATES OF AMERICA.

30. At all times hereinafter mentioned, ADAMS, was an independent contractor of Defendant, UNITED STATES OF AMERICA.

31. At all the times hereinafter mentioned, ADAMS, was an employee of TIFFH.

32. At all times hereinafter mentioned, ADAMS, was acting within the scope of her employment as an employee of TIFFH.

33. At all times hereinafter mentioned, ADAMS, was an independent contractor of TIFFH.

34. At all the times hereinafter mentioned, ALISON M. KRAUSE, L.M.S.W. (hereinafter referred to as "KRAUSE"), was a licensed master social worker licensed to practice social work and practicing social work in the State of New York.

35. At all the times hereinafter mentioned, KRAUSE, was an employee of the Defendant, UNITED STATES OF AMERICA.

36. At all times hereinafter mentioned, the Defendant, KRAUSE, was acting within the scope of her employment as an employee of the Defendant, UNITED STATES OF AMERICA.

37. At all times hereinafter mentioned, KRAUSE, was an independent contractor of Defendant, UNITED STATES OF AMERICA.

38. At all the times hereinafter mentioned, KRAUSE, was an employee of TIFFH.

39. At all times hereinafter mentioned, KRAUSE, was acting within the scope of her employment as an employee of TIFFH.

40. At all times hereinafter mentioned, KRAUSE, was an independent contractor of TIFFH.

41. At all the times hereinafter mentioned, MARGARET GUNTHER, L.M.H.C. (hereinafter referred to as "GUNTHER"), was a licensed mental health counselor licensed to practice counseling and practicing counseling in the State of New York.

42. At all the times hereinafter mentioned, GUNTHER, was an employee of the Defendant, UNITED STATES OF AMERICA.

43. At all times hereinafter mentioned, the Defendant, GUNTHER, was acting within the scope of her employment as an employee of the Defendant, UNITED STATES OF AMERICA.

44. At all times hereinafter mentioned, GUNTHER, was an independent contractor of Defendant, UNITED STATES OF AMERICA.

45. At all the times hereinafter mentioned, GUNTHER, was an employee of TIFFH.

46. At all times hereinafter mentioned, GUNTHER, was acting within the scope of her employment as an employee of TIFFH.

47. At all times hereinafter mentioned, GUNTHER, was an independent contractor of TIFFH.

48. At all the times hereinafter mentioned, HOLLAND TROEGER, L.M.H.C.

(hereinafter referred to as "TROEGER"), was a licensed mental health counselor licensed to practice counseling and practicing counseling in the State of New York.

49. At all the times hereinafter mentioned, TROEGER, was an employee of the Defendant, UNITED STATES OF AMERICA.

50. At all times hereinafter mentioned, the Defendant, TROEGER, was acting within the scope of her employment as an employee of the Defendant, UNITED STATES OF AMERICA.

51. At all times hereinafter mentioned, TROEGER, was an independent contractor of Defendant, UNITED STATES OF AMERICA.

52. At all the times hereinafter mentioned, TROEGER, was an employee of TIFFH.

53. At all times hereinafter mentioned, TROEGER, was acting within the scope of her employment as an employee of TIFFH.

54. At all times hereinafter mentioned, TROEGER, was an independent contractor of TIFFH.

55. At all times hereinafter mentioned, TIFFH, claimed to and held itself out to the public that they provided proper medical and mental health care to its patients, including Plaintiff-Decedent, JACQUELYN SCHNAKENBERG.

56. At all times hereinafter mentioned, Defendant, UNITED STATES OF AMERICA, claimed to and held itself out to the public that they provided proper medical and mental health care to its patients, including Plaintiff-Decedent, JACQUELYN SCHNAKENBERG.

57. During the years 2018 through 2019, and more specifically from March 2019 to July 9, 2019, Plaintiff-Decedent JACQUELYN SCHNAKENBERG was a patient of Defendant,

UNITED STATES OF AMERICA.

58. During the years 2018 through 2019, and more specifically from March 2019 to July 9, 2019, Plaintiff-Decedent, JACQUELYN SCHNAKENBERG was a patient of TIFFH.

59. During the years 2018 through 2019, and more specifically from March 2019 to July 9, 2019, Plaintiff-Decedent, JACQUELYN SCHNAKENBERG was a patient of FOY.

60. During the years 2018 through 2019, and more specifically from March 2019 to July 9, 2019, Plaintiff-Decedent, JACQUELYN SCHNAKENBERG was a patient of ADAMS.

61. During the years 2018 through 2019, and more specifically from March 2019 to July 9, 2019, Plaintiff-Decedent, JACQUELYN SCHNAKENBERG was a patient of KRAUSE.

62. During the years 2018 through 2019, and more specifically from March 2019 to July 9, 2019, Plaintiff-Decedent, JACQUELYN SCHNAKENBERG was a patient of GUNTHER.

63. During the years 2018 through 2019, and more specifically from March 2019 to July 9, 2019, Plaintiff-Decedent, JACQUELYN SCHNAKENBERG was a patient of TROEGER.

64. During the years 2018 through 2019, and more specifically from March 2019 to July 9, 2019, the Defendant, UNITED STATES OF AMERICA, provided care and treatment to Plaintiff-Decedent, JACQUELYN SCHNAKENBERG.

65. During the years 2018 through 2019, and more specifically from March 2019 to July 9, 2019, TIFFH, provided care and treatment to Plaintiff-Decedent, JACQUELYN SCHNAKENBERG.

66. During the years 2018 through 2019, and more specifically from March 2019 to July 9, 2019, FOY, provided care and treatment to Plaintiff, JACQUELYN SCHNAKENBERG.

67. During the years 2018 through 2019, and more specifically from March 2019 to July 9, 2019, ADAMS, provided care and treatment to Plaintiff-Decedent, JACQUELYN SCHNAKENBERG.

68. During the years 2018 through 2019, and more specifically from March 2019 to July 9, 2019, KRAUSE, provided care and treatment to Plaintiff-Decedent, JACQUELYN SCHNAKENBERG.

69. During the years 2018 through 2019, and more specifically from March 2019 to July 9, 2019, GUNTHER, provided care and treatment to Plaintiff-Decedent, JACQUELYN SCHNAKENBERG.

70. During the years 2018 through 2019, and more specifically from March 2019 to July 9, 2019, TROEGER, provided care and treatment to Plaintiff-Decedent, JACQUELYN SCHNAKENBERG.

71. As a result of the medical and mental health care and treatment or lack thereof rendered to the Plaintiff-Decedent, JACQUELYN SCHNAKENBERG, by the Defendant, its agents, servants and/or employees, including but not limited to TIFFH, FOY, ADAMS, KRAUSE, GUNTHER, and TROEGER, their departures from accepted standards of medical, psychological, psychiatric, mental health, counseling, therapy, treatment management, and other good practices, the Plaintiff-Decedent, JACQUELYN SCHNAKENBERG, sustained severe and serious personal injuries including death.

72. That at all times herein mentioned, from 2018 through 2019, and more specifically from March 1, 2019 to July 9, 2019, Defendant, its agents, servants and/or employees, including but not limited to TIFFH, FOY, ADAMS, KRAUSE, GUNTHER and TROEGER failed to follow the standards of care and were negligent and careless in, *inter alia,*:

failing to properly monitor the Plaintiff-Decedent; failing to understand the risk presented by her depression; failing to appreciate the risk of suicide and act timely to protect the Plaintiff-Decedent; failing to act upon the appreciable risk of self-harm in the Plaintiff-Decedent; failing to know and recognize the signs and symptoms of suicidal ideation; failing to appreciate the signs and symptoms of suicidal ideation; failing to appreciate the signs and symptoms of a person who is in a vulnerable state requiring close observation, including the Plaintiff-Decedent; failing to take appropriate measures to monitor the Plaintiff-Decedent given her vulnerable mental state; in disregarding the present risk of suicide in Plaintiff-Decedent; in disregarding the signs and symptoms that Plaintiff-Decedent demonstrated for harming herself; failing to perform appropriate assessments of the Plaintiff-Decedent at each interaction; failing to recognize the cry for help by Plaintiff-Decedent; failing to appreciate the risk to Plaintiff-Decedent associated with improper and/or inadequate clinical monitoring; failing to act in a manner to protect Plaintiff-Decedent at each and every clinical encounter and phone encounter; failing to take necessary and appropriate steps to protect the Plaintiff-Decedent from harm; failing to appreciate the risks associated with improper and/or inadequate counseling; failing to properly, adequately and/or timely assess the Plaintiff-Decedent; failing to properly, adequately and/or timely monitor the Plaintiff-Decedent; failing to administer the best medical judgment; failing to adequately and/or appropriately supervise employees; failing to get Plaintiff-Decedent the necessary help before she committed suicide; negligently delaying necessary treatment to claimant; failing to exercise due and reasonable care under the circumstances; failing to follow up and ensure the Plaintiff-Decedent received the necessary treatment; failing to establish a differential diagnosis for Plaintiff-Decedent; failing to coordinate necessary care; failing to secure the necessary; failing to timely obtain in-patient care and treatment for Plaintiff-Decedent; prescribing medications without proper oversight; failing to warn the claimant about the significant side effects of the medication being prescribed; failing to timely asses and reassess the Plaintiff-Decedent; failing to obtain a proper and informed consent to the course of treatment followed; failing to inform the Plaintiff-Decedent of the risks associated with medications prescribed; failing to warn the Plaintiff-Decedent of the risks of not being an in-patient for her condition; and in abandoning the Plaintiff-Decedent, Jacquelyn Blaise Schnakenberg, all of which lead to the severe personal injuries, pain, suffering and subsequent death.

73. Due to the carelessness, negligence, abandonment and/or departures from accepted medical, clinical, internal medicine, primary care, psychological care, social worker, nurse practitioner and other good practices on the part of the Defendant, its agents, servants and/or employees, including but not limited to TIFFH, FOY, ADAMS, KRAUSE, GUNTHER and TROEGER in the care and treatment or lack thereof that was rendered to the Decedent herein, without any negligence on her part contributing thereto by Plaintiff-Decedent, JACQUELYN SCHNAKENBERG died on July 9, 2019. At the time of the death of Plaintiff-Decedent, the Decedent left surviving her mother, Plaintiff MARY JAPPEN and other next of kin who suffered pecuniary and other losses as a result of her death.

74. That at all times herein mentioned, from 2018 through 2019, and more specifically from March 1, 2019 to July 9, 2019, Defendant, its agents, servants and/or employees, including but not limited to TIFFH, FOY, ADAMS, KRAUSE, GUNTHER and TROEGER failed to follow the standards of care resulting in the death of Plaintiff-Decedent, JACQUELYN SCHNAKENBERG.

FEDERAL TORT CLAIMS ACT (FTCA) ADMINISTRATIVE PROCEDURE

75. On February 12, 2021 Plaintiffs' presented their claims to the appropriate Federal

Agency for administrative settlement under the FTCA pursuant to 28 U.S.C. § 2671, et, seq. (See Forms 95 submitted on behalf of the Estate of JACQUELYN SCHNAKENBERG and MARY JAPPEN attached herewith).

76. As of the filing of this Complaint, no denial has been issued on this claim and more than six months have elapsed since the presentment of the claims.

77. Pursuant to 28 U.S.C. 2401(b) the within Summons and Complaint is timely.

AS AND FOR A FIRST CAUSE OF ACTION FOR MEDICAL MALPRACTICE

78. Plaintiffs repeats, reiterates and realleges each and every allegation of paragraphs "1" through "77" inclusive with the same force and effect as if more fully set forth herein.

79. Defendant, its agents, servants and/or employees including but not limited to TIFFH, FOY, ADAMS, KRAUSE, GUNTHER and TROEGER undertook to attend and provide mental health care to Plaintiff-Decedent, JACQUELINE SCHNAKENBERG, from 2018 through 2019, and more specifically from March 1, 2019, to July 9, 2019, at TIFFH's facilities located at 279 Main Street, Suite 102 New Paltz, New York 12561.

80. Beginning in 2018 and continuing through July 9, 2019, the Plaintiff-Decedent, JACQUELINE SCHNAKENBERG, presented to Defendant, its agents, servants and employees, including but not limited to TIFFH, FOY, ADAMS, KRAUSE, GUNTHER and TROEGER, with signs and symptoms, including but not limited to, suicidal ideations, major depression disorder, anxiety disorders, generalized anxiety, and PTSD.

81. Defendant, its agents, servants and/or employees including but not limited to TIFFH, FOY, ADAMS, KRAUSE, GUNTHER and TROEGER were negligent in their treatment of Plaintiff-Decedent, JACQUELINE SCHNAKENBERG, including but not limited to, by failing to properly monitor the Decedent at appropriate and necessary times, failing to

address the risk of self-harm, failing to recognize the signs and symptoms of suicidal ideation; failing to take appropriate measures to monitor Plaintiff-Decedent given her vulnerable mental state; and failing to take necessary and appropriate steps to protect Plaintiff-Decedent, JACQUELINE SCHNAKENBERG, from harm and make appropriate recommendations.

82. Defendant, its agents, servants and/or employees including but not limited to TIFFH, FOY, ADAMS, KRAUSE, GUNTHER and TROEGER were negligent in their treatment of Plaintiff-Decedent, JACQUELINE SCHNAKENBERG, by failing to timely act; failing to properly, adequately and/or timely assess and re-assess Plaintiff-Decedent; and failing to administer the best medical judgment.

83. Defendant, its agents, servants and/or employees including but not limited to TIFFH, FOY, ADAMS, KRAUSE, GUNTHER and TROEGER were negligent in their treatment of Plaintiff-Decedent, JACQUELINE SCHNAKENBERG, by failing to perform appropriate diagnostic tests and/or assessments upon her.

84. Defendant, its agents, servants and/or employees including but not limited to TIFFH, FOY, ADAMS, KRAUSE, GUNTHER and TROEGER were negligent in their treatment of Plaintiff-Decedent, JACQUELINE SCHNAKENBERG, by failing to timely diagnose Plaintiff-Decedent with severe and unstable mental health and failing to establish a differential diagnosis of Plaintiff-Decedent, JACQUELINE SCHNAKENBERG and treat her accordingly.

85. Defendant, its agents, servants and/or employees including but not limited to TIFFH, FOY, ADAMS, KRAUSE, GUNTHER and TROEGER were negligent in their treatment of Plaintiff-Decedent, JACQUELINE SCHNAKENBERG, by failing to perform thorough examinations, and repeat them at appropriate intervals.

86. Defendant, its agents, servants and/or employees including but not limited to TIFFH, FOY, ADAMS, KRAUSE, GUNTHER and TROEGER were negligent in their treatment of Plaintiff-Decedent, JACQUELINE SCHNAKENBERG, by failing to exercise reasonable prudence in the course of evaluating and/or diagnosing Plaintiff-Decedent's condition; by failing to "do no harm" to Plaintiff-Decedent; by failing to follow up on treatment recommendations; by failing to secure the necessary treatment; by failing to notify Plaintiff-Decedent of the treatment delay and offer options; and by failing to appreciate and follow up on Plaintiff-Decedent's, JACQUELINE SCHNAKENBERG's complaints of suicidal ideations.

87. Defendant, its agents, servants and/or employees including but not limited to TIFFH, FOY, ADAMS, KRAUSE, GUNTHER and TROEGER were negligent in their treatment of Plaintiff-Decedent, JACQUELINE SCHNAKENBERG, by failing to secure the necessary care for Plaintiff-Decedent and by failing to timely arrange for in-patient care and treatment for Plaintiff-Decedent.

88. Defendant, its agents, servants and/or employees including but not limited to TIFFH, FOY, ADAMS, KRAUSE, GUNTHER and TROEGER were negligent in their treatment of Plaintiff-Decedent, JACQUELINE SCHNAKENBERG by failing to adequately and/or appropriately supervise its employees.

89. As a result of the improper care and treatment and/or the lack thereof rendered to Plaintiff-Decedent, JACQUELINE SCHNAKENBERG, by the Defendant herein, its agents, servants and/or employees, including but not limited to TIFFH, FOY, ADAMS, KRAUSE, GUNTHER and TROEGER, Plaintiff-Decedent sustained severe, serious personal injuries, pain and suffering, and subsequent death.

90. The injuries and damages sustained by Plaintiff-Decedent, were caused by the

negligence of the Defendant, its agents, servants and/or employees, including but not limited to TIFFH, FOY, ADAMS, KRAUSE, GUNTHER and TROEGER, without any negligence on the part of the Plaintiff-Decedent, JACQUENLINE SCHNAKENBERG, contributing thereto.

AS AND FOR A SECOND CAUSE OF ACTION FOR LACK OF INFORMED CONSENT

91. Plaintiffs repeat, reiterate and reallege each and every allegation of paragraphs "1" through "90" inclusive with the same force and effect as if more fully set forth herein.

92. Defendant, its agents, servants and/or employees, including but not limited to TIFFH, FOY, ADAMS, KRAUSE, GUNTHER and TROEGER, performed and/or failed to perform medical treatment and diagnostic procedures upon Plaintiff-Decedent, JACQUELINE SCHNAKENBERG, without obtaining her informed consent.

93. Defendant, its agents, servants and/or employees, including but not limited to TIFFH, FOY, ADAMS, KRAUSE, GUNTHER and TROEGER, failed to disclose all the facts that a reasonable mental health provider, under such circumstances, would explain to a patient including failing to disclose the risks and benefits of alternatives to in-patient observation and care; and by failing to obtain a proper informed consent of Plaintiff-Decedent to the course of treatment followed and by failing to inform Plaintiff-Decedent, JACQUELINE SCHNAKENBERG, of the risks associated with medications prescribed, and thereby failing to obtain an informed consent.

94. Defendant, its agents, servants and/or employees, including but not limited to TIFFH, FOY, ADAMS, KRAUSE, GUNTHER and TROEGER, failed to disclose and warn Plaintiff-Decedent of the risks of not being an in-patient for her condition and failing to inform Plaintiff-Decedent, JACQUELINE SCHNAKENBERG, of the alternatives of the treatment prescribed.

95. Defendant, its agents, servants and/or employees, including but not limited to TIFFH, FOY, ADAMS, KRAUSE, GUNTHER and TROEGER, failed to advise Plaintiff-Decedent, JACQUELINE SCHNAKENBERG, of the risks, dangers and consequences associated with the performance or nonperformance of the aforesaid medical and mental health treatments.

96. A reasonably prudent person in Plaintiff-Decedent's position would not have permitted, allowed or undergone the treatment recommendations, and/or diagnostic procedures being performed or withheld and would have chosen a different course of treatment if she had been fully informed of the risks, dangers and consequences and the alternatives thereto.

97. As a result of the aforesaid treatments, procedures, and/or diagnostic procedures being withheld or performed upon Plaintiff-Decedent, without her informed consent, the Plaintiff-Decedent, JACQUELINE SCHNAKENBERG, was damaged.

98. As a result of Defendant, its agents, servants and/or employees, including but not limited to TIFFH, FOY, ADAMS, KRAUSE, GUNTHER and TROEGER, their failure to obtain an informed consent, Plaintiff-Decedent, JACQUELINE SCHNAKENBERG, was caused to sustain pain and suffering.

99. As a result of Defendant, its agents, servants and/or employees, including but not limited to TIFFH, FOY, ADAMS, KRAUSE, GUNTHER and TROEGER'S, failure to obtain informed consent, Plaintiff-Decedent, JACQUELINE SCHNAKENBERG, sustained severe and permanent injuries, pain and suffering including death.

100. Such a lack of informed consent is a proximate cause of Plaintiff-Decedent, JACQUELINE SCHNAKENBERG, injuries including death, for which relief is sought herein.

101. The injuries and damages sustained by the Plaintiff-Decedent, JACQUELINE

SCHNAKENBERG, were caused by the negligence of the Defendant, its agents, servants and/or employees, including but not limited to TIFFH, FOY, ADAMS, KRAUSE, GUNTHER and TROEGER without any negligence on the part of the Plaintiff-Decedent, JACQUELINE SCHNAKENBERG and Plaintiff, MARY JAPPEN, contributing thereto.

102. By reason of the foregoing, FIRST CAUSE OF ACTION and SECOND CAUSE OF ACTION Plaintiffs have been damage in the sum of ONE MILLION ($1,000,000.00) Dollars.

AS AND FOR A THIRD CAUSE OF ACTION FOR LOSS OF SERVICES

103. Plaintiff repeats and reiterates and re-alleges all allegations set forth in paragraphs "1" through "102" with the same force and effect as if fully set forth herein.

104. At all times herein before mentioned, the Plaintiff, MARY JAPPEN, was the mother of Plaintiff-Decedent, JACQUELYN SCHNAKENBERG.

105. As a result of the foregoing negligence of the Defendant herein and the resulting injuries to the Plaintiff-Decedent, JACQUELYN SCHNAKENBERG, and without any negligence or culpable conduct on her part contributing thereto, the Plaintiff, MARY JAPPEN, has been deprived of the services, love and affection of her daughter, all to her damage in an amount which exceeds the jurisdictional limits of all other courts.

106. That by reason of the foregoing negligence of the Defendant herein and without any negligence or culpable conduct on Plaintiffs' part contributing thereto, the Plaintiff, MARY JAPPEN has been deprived of the loss of services, love and affection of her daughter, all to her damage in the sum of TWO MILLION ($2,000,000.00) Dollars.

AS AND FOR A FOURTH CAUSE OF ACTION FOR WRONGFUL DEATH

107. Plaintiff repeats and reiterates and re-alleges all allegations set forth in paragraphs

"1" through "106" with the same force and effect as if fully set forth herein.

108. The aforesaid death of the Plaintiff-Decedent, JACQUELYN SCHNAKENBERG, was due to the carelessness, negligence, abandonment and/or departures from accepted and proper medical, psychological, psychiatric, mental health, counseling, therapy, treatment management, and other good practices on the part of the Defendant herein, its agents, servants and/or employees, in the care and treatment or lack thereof that was rendered to the Decedent herein, without any negligence on her part contributing thereto.

109. The aforesaid conduct of the Defendant herein, was done wantonly, recklessly and with gross negligence.

110. At the time of her death Plaintiff-Decedent left surviving her mother, MARY JAPPEN, and other next of kin, who suffered pecuniary and other losses as a result of her death.

111. As a result of the aforesaid, the Plaintiff herein, MARY JAPPEN and other next of kin, have been damaged in a sum of money of TWO MILLION ($2,000,000.00) Dollars.

STATEMENT REGARDING EXCEPTIONS IN CPLR ARTICLE 16.

103. This action falls within one or more exceptions set forth in the Civil Practice Laws and Rules Section 1602.

WHEREFORE, Plaintiffs demand judgment against the Defendant, its agents, servants and employees, including but not limited to TIFFH, FOY, ADAMS, KRAUSE, GUNTHER and TROEGER for:

a) Damages in the sum of One Million and 00/00 Dollars ($1,000,000.00) in the FIRST and SECOND CAUSES OF ACTION; and

b) Damages in the sum of Two Million ($2,000,000.00) Dollars in the THIRD and FOUTH CAUSES OF ACTION; and

c) Costs, disbursements, and attorney fees; and

d) Such other and further relief as this court deems just and proper.

Dated: White Plains, New York
October 21 2021

By: KEITH J. CLARKE, Esq.
MEAGHER & MEAGHER, P.C.
Attorneys for Plaintiffs
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
---X
MARY JAPPEN as Administratrix of the Estate of JACQUELYN SCHNAKENBERG and MARY JAPPEN, Individually,

Plaintiffs,

-against-

UNITED STATES OF AMERICA,

Defendant.
---X

CERTIFICATE OF MEDICAL MALPRACTICE

KEITH J. CLARKE, an attorney duly admitted to practice in the Courts of the State of New York and the United States District Court for the Southern District of New York hereby affirms under the penalties of perjury:

I have reviewed the facts of this case and have consulted with at least one physician who is licensed to practice in this state, or any other state, and I reasonably believe that said physician is knowledgeable as to the relevant issues involved in this particular action and I have concluded on the basis of such review and consultation that there is a reasonable basis for the commencement of this action.

Dated: White Plains, New York
October 21, 2021

KEITH J. CLARKE, ESQ.

Case No.: ______

UNITED STATES DISTRCIT COURT
NORTHERN DISTRICT OF NEW YORK

MARY JAPPEN as Administratrix of the Estate of JACQUELYN SCHNAKENBERG and MARY JAPPEN, Individually,

Plaintiffs,

-v-

UNITED STATES OF AMERICA,

Defendants.

COMPLAINT

MEAGHER & MEAGHER, P.C.
Attorney for Plaintiff
111 Church Street
White Plains, New York 10601
(914) 328-8844

Pursuant to FRCP Rule 11, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, the contentions contained in the annexed documents are not frivolous.

Dated: October 21 2021 Signature ______

Print Signature's Name KEITH J. CLARKE, ESQ.

Service of a copy of the within is hereby admitted.
Dated: ______

______
Attorney(s) for
